

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

No. 51 of 1984

An Act to provide for support, administrative services and assistance for Aboriginal communities resident in Queensland and for management of lands for use by those communities and for related purposes

[ASSENTED TO 15TH MAY, 1984]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Community Services (Aborigines) Act 1984*.

2. Commencement. (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as is provided by subsection (1), this Act shall commence on 31 May 1984 or on such earlier date as is appointed by Proclamation.

(3) The date on which this Act, other than sections 1 and 2 commences as prescribed is in this Act referred to as the commencement of this Act.

3. Arrangement. This Act is arranged in Parts as follows:—

PART I—PRELIMINARY (ss. 1–6);

PART II—ADMINISTRATION (ss. 7–13);

PART III—LOCAL GOVERNMENT OF AREAS (ss. 14–45);

Division 1—Aboriginal Councils;

Division 2—Law and Order in Areas;

Division 3—Determination of Matters of Complaint in Areas;

PART IV—ABORIGINAL CO-ORDINATING COUNCIL (ss. 46–53);

PART V—ABORIGINAL INDUSTRIES BOARD (ss. 54–64);

PART VI—ENTRY UPON AREAS (ss. 65–70);

PART VII—ASSISTANCE SOUGHT BY ABORIGINES (ss. 71–75);

PART VIII—GENERAL PROVISIONS (ss. 76–82);

PART IX—ASSISTANCE TO AND REVIEW OF ABORIGINAL COUNCILS (ss. 83–84);

4. Repeal. The *Aborigines Act 1971–1979* is repealed.

5. Savings. (1) An area that at the commencement of this Act is a reserve within the meaning of the *Aborigines Act 1971–1979* shall continue as a trust area for the purposes of this Act.

(2) Every Aboriginal Council existing at the commencement of this Act shall, unless it is sooner dissolved in accordance with this Act, continue in being for the purposes of this Act until the first election of councillors held as required by this Act.

(3) Every by-law, resolution or order lawfully made by an Aboriginal Council before the commencement of this Act that subsists at such commencement shall continue to have force and effect as if it had been made pursuant to this Act.

(4) Every order and decision made by an Aboriginal Court before the commencement of this Act that is operative at such commencement shall continue to be operative as if it had been made by that court constituted pursuant to this Act.

(5) A person who at the commencement of this Act holds an appointment for the purposes of the *Aborigines Act 1971* (or that Act as subsequently amended) shall, subject to the conditions of his appointment, continue to hold the appointment for the purposes of this Act, if the appointment is material to the purposes of this Act.

(6) A management of property of a person that was undertaken when he was an assisted Aborigine within the meaning of *The Aborigines' and Torres Strait Islanders' Affairs Act of 1965* (or that Act as subsequently amended) and that is maintained at the commencement of this Act shall be deemed to be a management of property under this Act and, unless it is terminated in accordance with this Act, shall be maintained in accordance with this Act.

(7) A management of property of an Aborigine that is maintained at the commencement of this Act shall continue to be maintained in accordance with this Act unless it is terminated in accordance with this Act.

(8) The Aborigines Welfare Fund maintained pursuant to the regulations under the *Aborigines Act 1971-1979* shall continue to be maintained by the Under Secretary in accordance with this Act.

6. Meaning of terms. In this Act, except where the contrary appears—

“area” means a trust area;

“by-laws” in relation to an Aboriginal Council, includes—

- (a) by-laws made by the council as the authority charged with the functions of local government of an area; and
- (b) by-laws made by the council as trustee of the area by reason of the land comprising the area having been granted in trust or reserved and set apart by the Governor in Council under the provisions of law relating to Crown lands and vested in or placed under the control of the council;

“Corporation” means the corporation sole preserved, continued in being and constituted under this Act by the name and style The Corporation of the Under Secretary for Community Services;

“Department” means the Department of Community Services;

“Aborigine” means a person who is a descendant of an indigenous inhabitant of Australia other than the Torres Strait Islands and includes any person who resides in an area as part of a community of Islanders;

“Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes any other Minister of the Crown for the time being performing the duties of the Minister;

“trust area” means land granted in trust by the Governor in Council for the benefit of Aboriginal inhabitants or reserved and set apart by the Governor in Council for the benefit of Aborigines under the provisions of law relating to Crown lands;

“Under Secretary” means the person holding the appointment of Under Secretary, Department of Community Services and includes any person for the time being acting in or performing the duties of that appointment.

PART II—ADMINISTRATION

7. Responsible officer. (1) The Under Secretary is the officer charged with the responsibility for the administration of this Act, subject to the Minister.

8. Corporation. (1) The corporation sole preserved, continued in existence and constituted under the *Aborigines Act* 1971 under the name and style The Corporation of the Director of Aboriginal and Islanders Advancement is further preserved, continued in being and constituted under this Act under the name and style The Corporation of the Under Secretary for Community Services.

The Corporation is constituted by the person who at the material time holds the appointment, Under Secretary, Department of Community Services, and under the name and style assigned to it by subsection (1)—

- (a) has perpetual succession and an official seal;
- (b) is capable in law of suing and being sued, of compounding or proving in a court of competent jurisdiction all debts and sums of money due to it;
- (c) is capable in law of acquiring and holding (absolutely or subject to trusts), letting, leasing, hiring, disposing of and otherwise dealing with property real and personal situated within or outside the State and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(3) All courts, judges, justices and persons acting judicially shall take judicial notice of the seal of the Corporation affixed to any writing and, until the contrary is proved, shall presume that it was duly affixed thereto.

(4) With respect to the exercise of any of its powers and with respect to any matter arising in connexion therewith the Corporation has all the privileges, rights and remedies of the Crown.

9. Agents of Department. (1) The Under Secretary may make arrangements with any person holding an appointment under any Act, any officer of the Public Service of Queensland, any person concerned in the local government of any Area or any other person with a view to

the person who from time to time holds an appointment specified in the arrangements at a place in Queensland specified in the arrangements to be an agent of the department within an area described in the arrangements.

(2) An arrangement made under subsection (1) may include a provision for the payment to the agent or to the person with whom the arrangement is made of an amount by way of remuneration for the agent's services.

(3) An agent of the department shall discharge such functions and duties and may exercise such powers as are imposed or conferred on him by this Act or as the Under Secretary from time to time requests of him.

10. Power of delegation. (1) The Minister or Under Secretary may, either generally or otherwise as provided by the instrument of delegation, by writing delegate to any person all or any of his powers, functions and duties except this power of delegation or a function imposed on him pursuant to section 12 (1).

(2) A power, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms and limitations as the Minister or Under Secretary thinks fit including a requirement that the delegate shall report to the Minister or, as the case may be, Under Secretary upon his exercise or performance of the delegated power, function or duty.

(4) The Minister or Under Secretary may make such and so many delegations of the same power, function or duty and to such number of persons as he considers necessary or desirable.

(5) A delegation is revocable at the will of the Minister or, as the case may be, Under Secretary and does not prevent the exercise of a power or the performance of a function or duty by him.

11. Visiting justices. (1) The Governor in Council may appoint a justice to be a visiting justice to one or more trust areas.

(2) At least once in every period of three months the visiting justice shall visit every trust area to which he is visiting justice and shall—

- (a) investigate any complaints by Aborigines resident in the area concerning the administration of the area;
- (b) inspect the record of punishments imposed on Aborigines in the area by any Aboriginal Court that functions in the area;
- (c) if he is a Stipendiary Magistrate, constitute a Magistrates Court there and hear and determine summarily complaints against Aborigines in the area in cases where an Aboriginal Court does not exist in the area;

- (d) report to the Under Secretary as soon as is practicable after completion of his visit on—
- (i) administration of the area; and
 - (ii) matters that in his opinion affect the welfare of residents in the area; and
 - (iii) such other matters as the Under Secretary requests.

12. Official inquiries. (1) The Governor in Council may authorize any person to make and hold such inspections, investigations and inquiries for the purposes of this Act as he considers desirable and for the purposes of such an inspection, investigation or inquiry the person so authorized may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under *The Commissions of Inquiry Acts 1950 to 1954* and of a chairman of such a commission, except such as are by those Acts confined to a chairman who is a Judge of the Supreme Court unless he is such a judge.

(2) A person who makes or holds an inspection, investigation or inquiry pursuant to subsection (1) shall, as soon as is practicable after its completion, furnish a full report thereon to the Minister, who shall submit the report to the Governor in Council.

13. Annual report on administration. As soon as is practicable after 30 June in each year the Under Secretary shall furnish to the Minister a report on the administration of this Act during the preceding 12 months.

The Minister shall table each such report received by him in the Legislative Assembly within 14 sitting days after he has received it.

PART III—LOCAL GOVERNMENT OF AREAS

Division 1—Aboriginal Councils

14. Requirement of Aboriginal Councils. (1) Subject to this Part, every trust area shall be governed by an Aboriginal Council.

(2) Where a community of Torres Strait Islanders exists in a trust area the Aboriginal Council that governs the area has no jurisdiction within that part of the area appropriated for use of that community.

15. Incorporation of Aboriginal Councils. (1) Every Aboriginal Council existing at the commencement of this Act is preserved, continued in being and constituted as a body corporate and shall continue as such until it is dissolved as prescribed.

(2) Every Aboriginal Council established after the commencement of this Act shall upon its establishment be a body corporate and shall continue as such until it is dissolved as prescribed.

(3) A body corporate referred to in subsection (1) or (2) shall have perpetual succession and an official seal which shall be judicially noticed and shall, under its name—being (name of the trust area) Aboriginal Council—be capable in law of suing and being sued, of acquiring, holding (absolutely or subject to trusts), letting, leasing, hiring, disposing of and otherwise dealing with property real and personal and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(4) The persons who at the commencement of this Act comprise an Aboriginal Council shall continue in office until their successors are appointed as prescribed.

16. Tenure of office of councillors. Subject to this Act, every member of an Aboriginal Council shall hold office for three years commencing on the day of his election as a member and terminating at the conclusion of the next triennial election of members of the council.

17. Times for election of councillors. (1) In the year 1985 an election shall be held for the purpose of reconstituting the Aboriginal Council established for each area on the date on which are held the triennial elections in that year for the purpose of reconstituting Local Authorities pursuant to the *Local Government Act 1936–1984*.

(2) The term of office of every member of an Aboriginal Council established as at the commencement of this Act shall terminate at the conclusion of the election held pursuant to subsection (1).

(3) In each area a triennial election of members of the Aboriginal Council established for the area and existing for the time being shall be held.

(4) Every triennial election held pursuant to subsection (3) shall be held on the date on which are held the triennial elections for the purpose of reconstituting Local Authorities pursuant to the *Local Government Act 1936–1984*.

18. Voters' roll. For the purpose of every triennial election for an Aboriginal Council and, if necessary, for any other election for the council held pursuant to this Act there shall be compiled a voters' roll, which shall be in accordance with the provisions relating to voters' rolls of the *Local Government Act 1936–1984* or, if the regulations prescribe with respect to voters' rolls, with the provisions of the regulations.

19. Relationship of Aboriginal area to Local Authority Area. Notwithstanding any provision of the *Local Government Act 1936–1984*—

(a) land within an area is not rateable land for the purposes of that Act;

- (b) a person whose name is properly on a voters' roll for the purpose of an election of an Aboriginal Council—
 - (i) shall not be entitled to vote at an election of the Local Authority of the Area within the meaning of the *Local Government Act* 1936–1984 of which the area of the Aboriginal Council forms a part or at an election to fill any vacancy on that Local Authority;
 - (ii) is not qualified to be enrolled on the voters' roll for the purpose of an election such as is referred to in subparagraph (i);
- (c) the returning officer, for the purpose of an election such as is referred to in subparagraph (b) (i), is authorized to make such eliminations from and corrections of any electoral roll in use for the purpose of the election as are necessary to give effect to paragraph (b).

20. Power to dissolve Aboriginal Council. The Governor in Council may—

- (a) in his absolute discretion; or
- (b) upon the petition of at least one-fifth of the electors enrolled on a voters' roll for the area to which the petition relates, by Order in Council, if in his opinion circumstances have arisen that render it necessary so to do, dissolve an Aboriginal Council, whereupon the members of the council shall go out of office.

21. Appointment of Administrator. (1) By the order by which he dissolves an Aboriginal Council or by a subsequent Order in Council the Governor in Council shall appoint some person to discharge and exercise, for such period as is specified in the order, such of the functions, duties and powers of the council as are specified in the order.

For the term of his appointment the person appointed shall be deemed to be the Aboriginal Council and shall be charged with the functions and duties and may exercise the powers so specified.

(2) The person so appointed shall be known by the official title of Administrator of the Aboriginal Council concerned.

22. Order for fresh election. Where the Governor in Council has dissolved an Aboriginal Council he may, by the same or a subsequent Order in Council, direct that a fresh election for the council shall be held at a time appointed by him and such direction shall be given effect.

23. Executive officer of Aboriginal Councils. (1) There shall be an Executive Officer of each Aboriginal Council for a period of three years from the commencement of this Act or, in respect of a particular Aboriginal Council declared by Order in Council, for a shorter period specified in the order or, in respect of a particular Aboriginal Council that requests it, for a longer period agreed to from time to time between the council and the Under Secretary.

(2) In relation to each Aboriginal Council the Executive Officer shall be that officer of the Department charged with the responsibility for personnel and property of the Department assigned or allocated to assisting members of the community of Aborigines resident in the area for which the council is established.

(3) The person who is the Executive Officer of an Aboriginal Council shall cease to hold that office upon the expiration of three years from the commencement of this Act or, where the council is one declared by Order in Council under subsection (1), upon the expiration of the shorter period specified in relation to that council or, where the council is one that has agreed on a longer period for its Executive Officer, upon the expiration of the longer period agreed upon.

24. Role of Executive Officer. During the period for which an Aboriginal Council has an Executive Officer as prescribed, in the discharge and exercise by the council of its functions and powers of local government—

- (a) personnel and property of the Department shall not be utilized for the council's purposes except with the Executive Officer's approval first had and obtained;
- (b) expenditure shall not be incurred or approved against moneys appropriated by Parliament and allocated to the use or benefit of the area for which the council is established except with the Executive Officer's approval first had and obtained; and
- (c) a bill of exchange, promissory note or acknowledgment of indebtedness purporting to be drawn on behalf of the council shall not be met from funds standing to the credit of the council or from accretions to such funds, if the funds represent moneys appropriated by Parliament and allocated to the use or benefit of the area for which the council is established unless the bill, note or acknowledgment bears the signature of the Executive Officer as a drawer.

25. Functions of Aboriginal Councils. (1) An Aboriginal Council has and may discharge the functions of local government of the area for which it is established and is hereby charged with the good rule and government thereof in accordance with the customs and practices of the Aborigines concerned and for that purpose may make by-laws and enforce the observance of all by-laws lawfully made by it.

(2) Without limiting the functions and powers of an Aboriginal Council, a council may make by-laws for promoting, maintaining, regulating and controlling—

the peace, order, discipline, comfort, health, moral safety, convenience, food supply, housing and welfare of the area for which it is established;

the planning, development and embellishment of the area for which it is established;

the business and working of the local government of the area for which it is established.

(3) Matters with respect to which an Aboriginal Council may exercise its powers and discharge its functions include—

(a) the provision, construction, maintenance, management, and control of roads, bridges, viaducts, culverts, baths and bathing places; the undertaking and execution of work in connexion therewith; the regulation of the usage thereof;

(b) health, sanitation, cleansing, scavenging and drainage, the removal, suppression and abatement of nuisances, public conveniences, water conservation, agricultural drainage, village planning, subdivision of land, the usage and occupation of land, building, the usage and occupation of buildings, protection from fire, boundaries and fences, disposal of the dead, the destruction of weeds and animals;

(c) works, matters and things that, in its opinion, are necessary or conducive to the good rule and government of the area or community for which the council is established or to the well-being of its inhabitants.

(4) The power conferred on an Aboriginal Council to regulate or control includes power to license or permit or to refuse to license or permit and to prohibit by by-law made in that behalf.

(5) Fees, charges, fares, rents, and dues may be imposed by by-law or resolution of an Aboriginal Council.

(6) A by-law of an Aboriginal Council may impose a penalty in respect of any breach thereof or of another by-law but any such penalty—

(a) shall not exceed \$500; or

(b) if it is expressed as a daily penalty, shall not exceed \$50 per day.

(7) For the purposes of exercising its powers and discharging its functions an Aboriginal Council may engage such servants and agents as it thinks fit.

26. Provisions concerning making of by-laws. (1) A by-law of an Aboriginal Council shall be made and shall take effect in accordance with the provisions of this section.

(2) A by-law shall be made by resolution of the council and shall be of no force or effect until it has been approved by the Governor in Council.

(3) Before proceeding to make a by-law a notice of intention to make the proposed by-law shall be exhibited in at least one prominent place in the area for which the council is established.

Every such notice—

(a) shall contain a copy of the proposed by-law; and

- (b) shall specify a date by which or a time within which objections to the making of the by-law may be made to the clerk of the council.

(4) Where, after considering all objections duly made to the making thereof, an Aboriginal Council has proceeded to the making of the by-law it shall submit the by-law to the Minister for the approval of the Governor in Council.

Every such submission shall be accompanied by—

- (a) a certificate of the chairman and the clerk of the council that the provisions of subsection (3) have been complied with;
- (b) all objections to the making of the by-law that were duly made and lodged with the clerk of the council; and
- (c) the representations (if any) of the council in respect of the objections.

(5) The Governor in Council shall consider every by-law submitted to the Minister and all objections and representations accompanying the submission and may reject the by-law or may approve the by-law wholly or in part.

(6) Where the Governor in Council approves a by-law or part of a by-law his approval and the by-law or part shall be published in the Gazette and thereupon the by-law as approved shall have the force of law and shall not be questioned in any proceedings whatever.

A by-law as approved shall come into operation on the date of its publication in the Gazette unless it specifies a later date for its commencement, in which case it shall come into operation on such later date.

27. Subsequent action as to by-laws. Where a by-law made by an Aboriginal Council has been approved by the Governor in Council the council—

- (a) shall cause a copy of the by-law as approved to be exhibited for a reasonable time in at least one prominent place within the area for which it is established;
- (b) shall cause a reasonable number of copies of the by-law as approved to be kept at the council's office and available to residents of the area for which it is established; and
- (c) may at any time repeal or amend the by-law by another by-law made in accordance with section 26.

28. Area rate and other charges. (1) An Aboriginal Council may make and levy a rate upon such basis as is prescribed by by-law of the council.

(2) An Aboriginal Council may impose, demand and recover fees, charges, fares, rents and dues in respect of any property, service, matter or thing for the purpose of enabling it to discharge and exercise its functions and powers.

29. Budget of Aboriginal Councils. (1) An Aboriginal Council shall cause to be framed in a form acceptable to the Minister a separate budget for each fund established and kept by it, other than any trust fund, on or before its first ordinary meeting in the month of August in each year.

Every such budget shall be for the current year commencing on 1 July and terminating on the next following 30 June, and, if the form and manner of its framing is prescribed, shall be framed in the form and manner prescribed.

(2) Every budget shall be adopted by the Aboriginal Council on or before 31 August in the year for which it is framed and, subject to the budget being approved as prescribed, the rates and charges to be levied in that year by the council shall be founded on the appropriate budget.

(3) Every budget adopted by an Aboriginal Council shall be forthwith submitted to the Under Secretary for the approval of the Minister.

The Minister may approve a budget submitted or reject it.

If the Minister rejects a budget, the Aboriginal Council concerned may cause to be framed and adopt a fresh budget in place thereof and submit the fresh budget for approval by the Minister without regard to the time limits prescribed by this section in respect of the framing and adoption of a budget.

(4) A budget of an Aboriginal Council shall be of no force and effect until it is approved by the Minister.

30. Illegal expenditure. (1) If an Aboriginal Council makes any disbursement in any year from any fund, other than a trust fund, that has not been provided for in the budget for that fund for that year, except in emergent or extraordinary circumstances, all the members of the council who knowingly voted for the expenditure in connexion with which the disbursement was made shall be jointly and severally liable to repay to the council the amount of the disbursement and such liability may be enforced by way of action for a debt due and owing to the council in any court of competent jurisdiction.

(2) The Minister is hereby authorized to institute and conduct, as agent of and in the name of the Aboriginal Council concerned, action to recover the amount of a disbursement that is recoverable by the council under subsection (1).

31. Expenditure pending budget. (1) At the close of each year terminating on 30 June all authorizations of expenditure shall lapse.

(2) Any ordinary disbursement by an Aboriginal Council between 1 July in any year and the approval by the Minister of the council's budget in accordance with this Act is, subject to section 24, authorized and shall be included in the budget framed in that year.

32. Accounts and audit. (1) An Aboriginal Council shall keep proper accounts to record the receipts and disbursements into and from each fund of the council, including such accounts as may be directed by the Minister.

The Under Secretary or a person authorized by him is entitled to enter into and be in the area and premises of an Aboriginal Council, to inspect the records of accounts kept by that council and to make copies of or extracts from such records.

Upon the request of the Under Secretary or such authorized person, a person having custody of the records of accounts on behalf of an Aboriginal Council shall produce the records in accordance with the request.

(2) The accounts of an Aboriginal Council shall be audited by the Auditor-General or by a person authorized by him, each of whom shall have with respect to such audit and accounts all the powers and authorities conferred on him by the *Financial Administration and Audit Act 1977-1981* as if the council were a department of government of Queensland.

(3) The Auditor-General shall certify whether the statements and balance sheet referred to in section 33 submitted by an Aboriginal Council—

- (a) are in agreement with the accounts; and
- (b) in his opinion, fairly set out the financial transactions for the period to which they relate and show a true and fair view of the state of the council's financial affairs at the close of that period.

(4) The Auditor-General shall, at least once in each year, report to the Minister the result of each audit carried out pursuant to this section and shall, if he thinks fit, include with the report recommendations to the Minister with respect to the financial statements and the accounts of the Aboriginal Council concerned.

A copy of such report and recommendations shall be furnished to the chairman of the Aboriginal Council concerned who shall submit the report and recommendations to the Council at the first ordinary meeting of the council held after the report and recommendations are received by him.

(5) The Minister and the chairman aforesaid shall give due consideration to the report and recommendations of the Auditor-General made pursuant to subsection (4).

33. Financial returns and statements. (1) At the beginning of each month during a period of three years after the commencement of this Act and thereafter at the beginning of each quarter the chairman of an Aboriginal Council shall cause to be prepared and furnish to the Minister the following statements in the form required by the Minister—

- (a) a statement of receipts and disbursements with respect to each fund during the month last preceding;
- (b) a statement of income and expenditure in respect of the month last preceding.

(2) On or before 31 July in each year the chairman of an Aboriginal Council shall cause to be prepared and furnish to the Minister the following statements in the form required by the Minister—

- (a) an annual statement of receipts and disbursements with respect to each fund during the year terminating on 30 June last preceding;
- (b) an annual statement of income and expenditure in respect of the year terminating on 30 June last preceding; and
- (c) a balance sheet.

(3) The chairman of an Aboriginal Council shall certify whether the statements furnished under subsection (1) or (2) are in agreement with the council's accounts and whether the statement of income and expenditure and the balance sheet in his opinion fairly sets out the financial transactions for the period to which it relates and shows a true and fair view of the state of the council's financial affairs at the close of that period.

34. Borrowing powers. An Aboriginal Council has power to borrow money for the purpose of enabling it to discharge the functions of local government of the area for which it is established and the provisions of sections 22 and 28 of the *Local Government Act* 1936–1984 shall apply in relation to that power and the raising of loans in exercise of that power as if it were a Local Authority within the meaning of that Act and its area were an Area within the meaning of that Act.

35. Short term investment powers. (1) An Aboriginal Council may invest moneys that are temporarily surplus in any fund kept by it—

- (a) in securities issued or guaranteed by the Government of the Commonwealth or of a State or Territory of the Commonwealth;
- (b) with or on deposit with a bank or in securities issued guaranteed or accepted by a bank;
- (c) with any authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as lender of last resort;

- (d) in such other securities, investments or other financial arrangements as may be recommended by the Treasurer and approved by the Governor in Council,

provided that no such investment shall have a term in excess of 12 months except with the Treasurer's approval first had and obtained.

(2) Every security, safe custody acknowledgment or other document evidencing title issued in respect of any investment shall be held by the Aboriginal Council concerned or by the Treasurer on its behalf.

Division 2—Law and Order in Areas

36. Jurisdiction and powers of Queensland police. (1) Members of the Police Force of Queensland have and may exercise in any area and in respect of persons therein the functions, duties and powers imposed or conferred on them by law that they have and may exercise in any other part of Queensland.

(2) In respect of the discharge or exercise in an area of any function, duty or power a member of the police force has the protection accorded by law to a member of the police force in the discharge or exercise of that function, duty or power elsewhere in Queensland.

(3) Members of the Police Force of Queensland are authorized to perform such acts and do such things in an area as may be authorized or required to be done by Aboriginal police under the by-laws of the Aboriginal Council established for that area as if such by-laws were part of the law of Queensland.

(4) In respect in the performance in an area of any act or thing referred to in subsection (3) a member of the police force has the protection accorded by law to a member of the police force in the discharge or exercise by him of his functions, duties and powers elsewhere in Queensland.

37. Entry upon trust areas etc. A member of the Police Force of Queensland is entitled to enter on and to be in an area—

- (a) for the purpose of discharging or exercising a function, duty or power imposed or conferred on him by law; or
- (b) for the purpose of performing any act or thing that he is by this Act authorized to perform pursuant to an authority or requirement of a by-law of an Aboriginal Council.

and, in the case referred to in paragraph (b), he shall be deemed to be acting in the discharge of his duty as a member of the police force.

38. Places in trust areas etc. deemed to be public places. Right of access to or use of any place in an area by the general body of persons resident in the area shall be deemed to be right of access or use by the public and where any place would, but for its being in such an area, be

taken in law to be a public place, road, park or place of any other description it shall be taken so to be notwithstanding that it is in the area in question.

39. Aboriginal police. (1) The function of maintaining peace and good order in all parts of an area is that of persons who hold appointments for the time being as Aboriginal police for the area.

(2) An Aboriginal Council, with the Minister's approval, may appoint such number of persons as it considers necessary for the peace and good order of its area and the council shall equip the persons appointed with a uniform and such other marks of authority as it thinks fit to enable them to discharge their function.

40. Discharge of Aboriginal police function. (1) Aboriginal police appointed for an area shall have and may exercise within that area the functions, duties and powers conferred on them by by-law of the Aboriginal Council established for the area.

(2) If at any time a member of the Police Force of Queensland is, in execution of his duty, stationed in or present in the area for which Aboriginal police are appointed they shall discharge and exercise their functions, duties and powers subject to the direction and control of that member.

(3) It is lawful for an Aboriginal policeman to use reasonable force in the discharge of his function of maintaining peace and good order in the area for which he is appointed.

41. Other functions of Aboriginal police. An Aboriginal Council may by its by-laws or otherwise as it thinks fit charge Aboriginal police appointed for the area for which the council is established with responsibility for ambulance services, fire-fighting services, emergency services and such other services associated with the local government of the area as it thinks fit.

Division 3—Determination of Matters of Complaint in Areas

42. Aboriginal Courts. (1) For any area there may be constituted a court under the title, Aboriginal Court.

(2) An Aboriginal Court shall be constituted—

- (a) by two justices of the peace each of whom being an Aboriginal resident in the area for which the court is constituted and being entitled to sit as a member of the court in a particular case; or

- (b) where paragraph (a) cannot be complied with, by the members of the Aboriginal Council established for the area concerned or a majority of them.

(3) A person is not entitled to sit as a member of an Aboriginal Court constituted to hear and determine a matter in which he is a party.

43. Jurisdiction of Aboriginal Courts. (1) Subject to this Act, an Aboriginal Court has and may exercise the jurisdiction, powers and authorities conferred on it—

by this Act; or

by the by-laws of the Aboriginal Council established for the area for which the court is constituted.

(2) An Aboriginal Court has jurisdiction to hear and determine—

(a) matters of complaint that are breaches of the by-laws applicable within its area;

(b) disputes concerning matters within its area that are not breaches of the by-laws applicable within its area or of any law of the Commonwealth or the State; and

(c) matters committed to its jurisdiction by the regulations,

and shall exercise that jurisdiction referred to in provision (a) in accordance with the appropriate by-law having regard to the usages and customs of the community within its area and that jurisdiction referred to in provision (b) in accordance with the usages and customs of the community within its area.

44. Limitation of jurisdiction over persons. (1) The jurisdiction of an Aboriginal Court extends only to and in respect of persons, whether Aborigines or not, who are part of the community that resides in the area for which it is constituted.

(2) A person, whether an Aborigine or not, who is a resident in an area by reason only that he holds an appointment that requires his residence there shall not be taken to be part of the community that resides in the area.

(3) A person charged with a breach of a by-law applicable within an area who is not subject to the jurisdiction of the Aboriginal Court constituted for the area shall be dealt with according to law before a Magistrates Court and for that purpose the by-laws of the Aboriginal Council established for that area shall be deemed to be part of the law of Queensland.

45. Right of appeal against conviction. Any person aggrieved by his conviction of an offence by an Aboriginal Court shall have the same right of appeal against or review of the conviction and order made thereon as if he had been convicted and the order had been made by

a Magistrates Court and the provisions of the *Justices Act 1886-1982* shall, with all necessary adaptations, apply in respect of that right and the exercise thereof.

PART IV—ABORIGINAL CO-ORDINATING COUNCIL

46. Continuation and incorporation of Aboriginal Co-ordinating Council. (1) The body known as the Aboriginal Advisory Council existing at the commencement of this Act shall continue in being under the name Aboriginal Co-ordinating Council and be constituted from time to time in accordance with this Part.

(2) The Aboriginal Co-ordinating Council shall be a body corporate having perpetual succession and an official seal which shall be judicially noticed and shall, under its name, be capable in law of suing and being sued, of acquiring, holding (absolutely or subject to trusts), letting, leasing, hiring, disposing of and otherwise dealing with property real and personal and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

47. Membership of council. On and from the commencement of this Act the Aboriginal Co-ordinating Council shall be constituted by the persons who are chairmen of the Aboriginal Councils.

48. Functions of council. The functions of the Aboriginal Co-ordinating Council are—

- (a) to consider and advise the Minister and the Under Secretary on matters affecting the progress, development and well-being of Aborigines;
- (b) to recommend to the Minister and the Under Secretary concerning matters affecting the progress, development and well-being of Aborigines and the administration of this Act;
- (c) from time to time to select as prescribed four persons who are members of Aboriginal communities resident in trust areas in Queensland to be members of the Aboriginal Industries Board and four persons, being members of the Aboriginal Co-ordinating Council, to be members of an executive committee of the council;
- (d) from time to time to select one person who is a member of an Aboriginal community resident in a trust area in Queensland to be a member of the Aboriginal Industries Board; and
- (e) to attend to such other matters as are prescribed.

49. Meetings of council. The members of the Aboriginal Co-ordinating Council shall meet at such times and places as are approved by the Minister and may meet at such other times and places as they determine.

50. Divisions of Aboriginal communities. (1) For the purpose of the selection of members of the Aboriginal Industries Board and the executive committee under paragraph (c) of section 48 the Minister shall (and may from time to time) delineate, by such means as he thinks fit, the communities of Aborigines resident in trust areas in Queensland into four divisions.

(2) The membership of the Aboriginal Co-ordinating Council shall be deemed to be divided into four divisions corresponding to the divisions delineated for the time being by the Minister, each division being represented on that council by the members thereof who are members of communities of Aborigines resident in that division.

51. Selection of Board members. (1) For the purpose of the selection of members of the Aboriginal Industries Board and the executive committee under paragraph (c) section 48 the members of each division referred to in section 50 (2) shall select one person, being a member of a community of Aborigines resident in that division, to be a member of the Board or, as the case may be, the executive committee.

The appointment of a member of the Aboriginal Industries Board under paragraph (d) of section 48 shall be made by the whole of the Aboriginal Co-ordinating Council and the appointee shall be a member of any of the Aboriginal communities resident in trust areas in Queensland.

(2) A person selected to be a member of the Aboriginal Industries Board or, as the case may be, the executive committee under section 48 or to fill a casual vacancy in the office of such a member shall hold office as such member until he dies or resigns or a successor is selected as prescribed in his place or in the case of a member of the executive committee he ceases to be a member of the Aboriginal Co-ordinating Council.

(3) A successor to a member of the Aboriginal Industries Board or the executive committee selected under this Part may be selected at any time in the same manner as that member was selected.

(4) A person selected under this Part to be a member of the Aboriginal Industries Board or the executive committee shall be taken to have assumed office when his name is notified by the Aboriginal Co-ordinating Council to the Minister.

52. Casual vacancy in office of selected member. In the event of a vacancy occurring in the office of a member of the Aboriginal Industries Board or of the executive committee selected under this Part—

- (a) if the member was selected by a division of the members of the Aboriginal Co-ordinating Council, the members of the division by whom he was selected shall select a person, being a member of a community of Aborigines resident in the corresponding division of Aboriginal communities, to hold the office; and

- (b) if the member was selected otherwise, the Aboriginal Co-ordinating Council shall select a person, being a member of a community of Aborigines resident in a trust area in Queensland, to hold the office.

53. Particular functions of council. (1) The Aboriginal Co-ordinating Council shall apply property acquired by it (other than property acquired by it for its own use) towards the progress, development and well-being of the communities of Aborigines resident in trust areas by such means as, in its opinion, are best calculated to achieve the purpose.

(2) As soon as is practicable after the expiration of four years after the commencement of this Act the Aboriginal Co-ordinating Council shall furnish to the Minister a report concerning the operation of this Act and with that report shall submit its recommendation as to—

- (a) changes in the provisions and administration of this Act that in its opinion should be made to assist the progress, development and well-being of communities of Aborigines resident in Queensland;

- (b) such other matters as it considers appropriate.

(3) The Minister shall submit the report and recommendations furnished to him under subsection (2) to the Governor in Council within 28 days after they are furnished to him.

PART V—ABORIGINAL INDUSTRIES BOARD

54. The Board. (1) There shall be established a Board called “The Aboriginal Industries Board”, which in this Act is called the “Board” or the “Aboriginal Industries Board”.

(2) Upon its constitution the Board shall be a body corporate under the name “The Aboriginal Industries Board” and by that name shall have perpetual succession and an official seal, which shall be judicially noticed.

55. Membership of Board. (1) The Board shall consist of—

- (a) the Under Secretary;
- (b) three persons appointed by the Governor in Council by notification published in the Gazette; and
- (c) the five members for the time being selected by the Aboriginal Co-ordinating Council.

The persons appointed to the Board by the Governor in Council shall hold office at his pleasure.

(2) For a period of five years after the commencement of this Act the chairman of the Board shall be the Under Secretary and thereafter the chairman shall be a member of the Board nominated by the members for the time being.

- (3) The Board shall be taken to be duly constituted upon—
- (a) the appointment as prescribed of the two members referred to in paragraph (b) of subsection (1); and
 - (b) the assumption of office as prescribed by section 51 by the five members referred to in paragraph (c) of subsection (1).

56. Casual vacancy in appointed members of Board. In the event of a vacancy occurring in the office of a member of the Board appointed by him the Governor in Council shall appoint another person to hold the office at the pleasure of the Governor in Council.

57. Board meetings. (1) A quorum of members of the Board shall consist of a majority of those members including the chairman or a person nominated by him as his delegate for a particular meeting.

(2) The chairman of the Board shall preside at every meeting of the Board at which he is present and a person nominated by him as his delegate shall preside at any other meeting of the Board.

58. Officers and employees of Board. (1) Subject to the Minister's direction (if any) in that behalf the Board—

- (a) shall appoint a secretary to the Board;
- (b) may appoint such administrative and technical officers and clerks and employ such employees and agents as it considers necessary to the proper exercise of its powers and discharge of its functions.

(2) The secretary to the Board may execute documents on behalf of the Board, and may affix the official seal of the Board to any document that requires the same and shall perform such duties as are assigned to him by the Board.

(3) Unless he is appointed to his position under the *Public Service Act* 1922–1978 the secretary to the Board and every officer, clerk, employee and agent of the Board shall hold his office or be so employed at the pleasure of the Board.

(4) The chairman of the Board shall be its executive officer and is charged with control of and shall control the affairs of the Board and of any business conducted by the Board.

59. Powers of Board. (1) The Board is capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts and sums of money due to it, of acquiring, holding, alienating, leasing, conveying, surrendering, charging and otherwise dealing with property within or outside the State, and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(2) The Board may—

- (a) carry on the business of banker, blacksmith, building, carpenter, commission agent, common carrier (by land or water), dealer (wholesale or retail), engineer, exporter, factor, farmer, fisherman (including the gathering of pearl-shell, trochus-shell, and Beche-de-mer), forwarding agent, freight contractor, general merchant, grazier, importer, ironworker, joiner, labour agent, lighterman, manufacturer, mining, money-lender, plumber, shipping agent, ships' chandler, shipbroker, shipbuilder, shipowner, shopkeeper, stevedore, storekeeper, timber merchant, tinsmith, trustee, warehouseman, wharfinger, and any other business incidental or ancillary to any of the businesses specified or which, in the Board's opinion can be profitably or effectually carried on in connexion with any of the businesses specified;
- (b) acquire, lease, erect, maintain and renovate such buildings, wharves, vessels, tramways, plant and machinery, and undertake such works as, in the Board's opinion, are necessary or desirable for the proper exercise of the powers conferred on it by this Act;
- (c) obtain and disseminate information with respect to the best manner of carrying on any business specified or referred to in paragraph (a) of this subsection, undertake the instruction of Aborigines and other persons in any such business and, for that purpose, establish, maintain and conduct such schools and classes as the Board considers necessary or desirable and enter into contracts of apprenticeship;
- (d) for the purpose of carrying on any business specified or referred to in paragraph (a) of this subsection, exercise all such powers, authorities and discretions and do all such acts and things as a natural person conducting such a business in the State might exercise and do;
- (e) cause investigations to be made and, from time to time, report and recommend to the Under Secretary concerning—
 - (i) any question touching trade, commerce or business carried on by Aborigines or in which they are interested or engaged;
 - (ii) markets for the produce of Aborigines, trade in and methods of marketing such produce;
 - (iii) the encouragement, development and protection of the trade, commerce and industries of Aborigines;
- (f) finance any business specified or referred to in paragraph (a) of this subsection and, for that purpose, raise money on loan from the Treasurer of Queensland, the Corporation, the Corporation of the Agricultural Bank, or any bank, financial institution, or person and mortgage or assign by way of

security property of the Board (including the rights of the Board under contracts made with Aborigines or other persons in connexion with any such business).

60. Profits of Board. No part of the profits of the Board shall be paid into Consolidated Revenue but shall be applied for the general welfare of Aborigines in such manner as the Board from time to time directs with the approval of the Governor in Council.

61. Audit of Board's accounts. (1) The accounts of the Board shall be audited by the Auditor-General or by a person authorized by him, each of whom shall have with respect to such audit and accounts all the powers and authorities conferred on him by the *Financial Administration and Audit Act 1977-1981* as if the Board were a department of government of Queensland.

The Board shall pay a fee for such audit in an amount determined by the Auditor-General.

(2) The Auditor-General shall, at least once in each year, report to the Minister the result of each audit carried out pursuant to this section and shall, if he thinks fit, include with the report recommendations to the Minister with respect to the accounts of the Board.

A copy of such report and recommendation shall be furnished to the chairman of the Board who shall submit the report and recommendations to the Board at its first ordinary meeting held after the report and recommendations are received by him.

(3) The Minister and the Board's chairman shall give due consideration to the report and recommendations of the Auditor-General made pursuant to subsection (2).

62. Annual report by Board. As soon as is practicable after the first day of February in each year the Board shall furnish to the Minister a full report of its operations during the twelve months period that expired on the last day of January then last past.

63. Administrator may replace Board members. (1) The Governor in Council may at any time, on the recommendation of the Minister, dismiss the members for the time being of the Board, whereupon they shall cease to hold office, and may from time to time appoint in the place of those members an administrator to administer the Board's affairs.

(2) A person appointed as administrator under subsection (1) shall administer the Board's affairs for a period specified by the Governor in Council, not exceeding in any case a period of two years, unless within that specified period his appointment is revoked by the Governor in Council.

(3) The continuity of existence of the Board as a body corporate shall not be affected by a dismissal of members under subsection (1) and, for so long as he administers the Board's affairs, the administrator shall be taken to constitute the Board.

(4) Upon an administrator ceasing to administer the Board's affairs by reason of the expiration of the period of his appointment or the revocation of his appointment the Board shall again be constituted by the persons referred to in section 55 (1).

64. Relinquishment of Board's assets to local control. (1) If the Board receives a request in writing from an Aboriginal Council established for an area in which are situated premises in which the Board's business is carried on that the conduct of that business be transferred to it or to one or more members of the community resident in the area, the Board may as soon as is practicable, enter into such contracts, transactions and arrangements as are necessary or desirable to transfer the conduct of the business to the council or to such member or members or other member or members of that community.

(2) In discharge of the obligation prescribed by subsection (1) the Board shall have regard to the resources of the person or persons to whom it is proposed that the conduct of the business in question should be transferred and may transfer the conduct of the business on such terms and in such manner as it considers appropriate and prudent.

(3) Any person aggrieved by the terms on which or manner in which the Board proposes to transfer the conduct of a business to him may apply to the Minister to review those terms or that manner.

(4) The Minister may, after receiving the representations of the Board and the applicant and making such inquiry as he thinks fit, either confirm the Board's decision or vary it to such extent and in such manner as he thinks fit.

The Minister's decision shall be final and binding and shall be given effect by the Board and all persons concerned.

PART VI—ENTRY UPON AREAS

65. Entry upon public parts of areas. (1) Any person is authorized to enter upon and be in any public place, road, park or other place of public resort within an area or any place of business within an area in the course of his visiting the area or doing business within the area, if he is there for a lawful purpose.

(2) Any person is authorized to enter upon and be in any place within an area, other than a place referred to in subsection (1), if he is there for a lawful purpose as a guest or at the request of a member of the community resident in the area who is entitled to be in that place.

66. General authority to be in area. (1) Subject to this Part—

- (a) an Aborigine or other person who, in either case, is a member of the community resident in an area; or
- (b) a person who is discharging a function under this Act or any other Act that requires his presence in an area,

is authorized to enter upon, be in and reside in that area.

67. Entry upon and temporary stay in areas. (1) The following persons are authorized to enter upon and to be in any area and to remain therein until the purpose of their entry to the area is fulfilled:—

- (a) the Governor-General of Australia and the Governor of Queensland;
- (b) a person whose purpose in the area is to bring to residents of the area religious instruction, material comforts or medical aid;
- (c) a person whose purpose in the area is to instruct himself on affairs within the area as a member of the Legislative Assembly of Queensland or of either House of the Parliament of the Commonwealth;
- (d) a person whose purpose in the area is to campaign as a bona fide candidate for election to the Legislative Assembly of Queensland or either House of the Parliament of the Commonwealth at an election for which a writ that requires its holding has been duly issued;
- (e) a person who is assisting or is acting under the direction or control of a person referred to in the foregoing provisions, if such last-mentioned person is in the area.

(2) A person shall not be taken to have the purpose of bringing religious instruction to residents of an area referred to in subsection (1) unless he is a person or is of a class of person ordinarily used by a church or other religious organization, which itself is recognized as such throughout Australia, as a religious instructor.

68. Power of Aboriginal Council to regulate presence in area. An Aboriginal Council may—

- (a) make by-laws that authorize persons of a class specified therein to enter, be in or reside in the area for which it is established; or
- (b) make by-laws not inconsistent with this Act that exclude persons of a class specified therein from the area for which it is established or that prohibit or restrict persons of a class specified therein from entering, being in or residing in that area.

69. Excluded person entitled to reason. Any person who is aggrieved by his being excluded or prevented from entry upon, being in or residing in an area or by his entry upon, presence or residence in an area being restricted shall be entitled, upon his demand therefor, to be given by the Aboriginal Council concerned a notice in writing of the reason therefor.

70. Power of Aboriginal Council to eject. (1) In addition to all other powers had by it to remove persons from land of which it is trustee or occupier an Aboriginal Council may cause its agents to remove from the area for which it is established—

- (a) any person who is there without authority conferred by this Act or the by-laws of the council;
- (b) any person—
 - (i) who belongs to a class of person that is excluded from the area by its by-laws;
 - (ii) who belongs to a class of person whose entry to the area is prohibited by its by-laws;
 - (iii) who, being a member of a class of person whose entry to, being in or residing in the area is restricted by its by-laws, has contravened or failed to comply with the relevant by-laws.

(2) Any member of the Police Force, upon being requested so to do by an agent of an Aboriginal Council, shall assist in the summary removal of any person under this section and, while so acting, is authorized to be in the area concerned.

No liability shall attach to any member of the Police Force by reason only of the fact that a person in whose removal from an area he has assisted should not have been so removed.

(3) It is lawful to use reasonable force in the exercise of the power conferred by subsection (1) and in assisting therein.

PART VII—ASSISTANCE SOUGHT BY ABORIGINES

71. Grant of aid. (1) Subject to and in accordance with the regulations (if any) applicable to the grant in question, the Under Secretary may grant aid to any Aborigine who applies to him therefor and, where necessary, may apply therein money appropriated by Parliament for the purpose or money held for the benefit of Aborigines generally.

(2) Subject as prescribed by the preceding subsection, aid granted under that subsection may be of such a type (in money, in kind, or by way of services) and may be granted in such circumstances, on such terms and conditions and, where granted by way of secured loan, on such security as the Under Secretary thinks fit.

72. Deposit of savings with banker. (1) The Under Secretary is authorized to continue the facilities established as at the commencement of this Act in areas for the acceptance by him of money deposited by

Aborigines by way of their savings and both he and the Aboriginal Industries Board are authorized to establish in areas new facilities of a like nature.

In this Part the person providing such facilities is called "the banker".

(2) The banker shall in the first instance pay all moneys deposited with him by Aborigines by way of their savings—

- (a) where he is the Under Secretary, to the credit of the trust fund established as at the commencement of this Act with the Commonwealth Savings Bank of Australia or such other trust fund or trust funds as he may from time to time establish for the purpose; or
- (b) where he is the Board, to the credit of such trust fund or trust funds as it may from time to time establish for the purpose.

(3) The banker shall cause to be properly kept a separate record and account of all moneys deposited with him by each Aborigine by way of his savings and each such account shall be credited at least once in each year with an amount as interest earned by the amount standing to the credit of that account at a rate not less than the rate of interest payable by the Commonwealth Savings Bank of Australia in respect of its ordinary savings accounts.

(4) Money deposited with the banker by Aborigines by way of their savings together with all interest accrued thereon shall be repayable at call and upon receipt of an authority signed or otherwise attested by the Aborigine on whose behalf money is so held or by another person authorized in writing by the Aborigine the Under Secretary shall arrange the withdrawal of the amount sought from the appropriate trust fund and the payment thereof to the Aborigine or as otherwise requested by the Aborigine.

73. Continuation of management of money. (1) Where at the commencement of this Act property, being money, of an Aborigine is being managed under the *Aborigines Act 1971-1979* the Under Secretary is authorized to continue that management.

(2) Moneys of an Aborigine under the management of the Under Secretary pursuant to subsection (1) shall be deemed to be moneys deposited with him by the Aborigine by way of his savings and the provisions of section 72 shall apply accordingly.

74. Investment of moneys by banker. (1) Moneys from time to time forming part of the trust fund or a trust fund referred to in section 72 (2) that are surplus to the immediate requirements of the fund may be withdrawn by the banker and may be invested by him or through the Treasurer of Queensland—

- (a) with any authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as lender of last resort; or

- (b) in such securities, investments or financial arrangements as may be recommended by the Treasurer and approved by the Governor in Council.

(2) No investment of moneys pursuant to subsection (1) shall have a term in excess of 12 months except with the Treasurer's approval first had and obtained.

75. Administration of Aborigines' estates. (1) Notwithstanding the provisions of any Act or rule of law or practice where—

- (a) an Aborigine has died without appointing an executor or there is no executor resident in Queensland who is willing and capable of acting in the execution of the will of the deceased; or
- (b) an Aborigine is missing,

the Under Secretary shall administer the estate of the Aborigine and if the nature of the estate requires a grant of probate or of letters of administration to be made, he shall be entitled to that grant in priority to all other persons.

(2) The Under Secretary may renounce the rights conferred on him by subsection (1) in favour of the Public Trustee who shall thereupon be entitled to an Order to Administer the estate in question or, as the case may be, to file an Election to Administer the estate in question to the exclusion of all other persons.

(3) In the absence of a testamentary instrument duly made by an Aborigine who has died or is to be presumed to have died and if it should prove impracticable to ascertain the person or persons entitled in law to succeed to the estate of the Aborigine or any part of it, the Under Secretary, whether or not he is administering the estate, may determine which person or persons shall be entitled to so succeed or whether any person is so entitled.

The person or persons determined by the Under Secretary to be entitled to succeed to an estate or to any part of it shall be the only person or persons entitled in law to succeed to the estate or, as the case may be, part and, if more than one person is so determined, to succeed in the order and proportions determined by the Under Secretary.

(4) A certificate purporting to be signed by the Under Secretary that the person or persons named therein is or are entitled to succeed to the estate or any part of the estate of the person named therein (being a person to whose estate subsection (1) of this section applies), or that there is no person so entitled shall be conclusive evidence of the matters contained therein.

(5) If, so far as can be determined, there is no person entitled to succeed to the estate or a part of the estate of an Aborigine who has died or is to be presumed to have died the estate or, as the case may be, part shall vest in the Under Secretary who shall apply the moneys or the proceeds of the sale of any property (less the expenses, if any, of such sale) for the benefit of Aborigines generally as provided by section 71.

PART VIII—GENERAL PROVISIONS

76. Supply of beer in areas. (1) An Aboriginal Council, with the Under Secretary's approval first had and obtained, is authorized to establish and maintain within its area premises for the sale and supply of beer and to conduct within its area the business of selling and supplying beer.

(2) If the authority conferred by subsection (1) is exercised by an Aboriginal Council, it shall be exercised as a function of local government.

(3) The provisions of the *Liquor Act* 1912–1984, other than section 81 thereof, do not apply in respect of the establishment or maintenance of premises for the sale and supply of beer pursuant to the authority conferred by subsection (1) or in respect of the conduct therein and therefrom of the business of selling and supplying beer pursuant to that authority or in respect of the consumption of beer so sold and supplied.

For the purpose of the application of section 81 of the *Liquor Act* 1912–1984 in respect of such premises in an area the premises shall be deemed to be premises of a licensee within the meaning of that Act and the person shall be deemed to be the licensee of the premises within the meaning of that Act.

(4) An Aboriginal Council may, pursuant to its power to make by-laws conferred by this Act, make by-laws with respect to the establishment and maintenance within its area of premises in and from which beer may be sold and supplied; with respect to the sale, supply and consumption of beer sold and supplied in and from such premises; and with respect to the conduct of such premises.

(5) Beer sold and supplied from premises established in an area established pursuant to this section shall not be taken away from those premises for consumption except in quantities that do not exceed a limit fixed by the relevant Aboriginal Council by its by-laws.

For the purpose of assessing whether a quantity of beer taken away by or on behalf of a particular person is in contravention of this subsection all quantities taken away by him or on his behalf during the period of trading hours on any one day shall be aggregated and he shall be deemed to have taken away that aggregate quantity.

A person who conducts or assists in conducting premises established in an area pursuant to this section shall not knowingly permit or suffer a person to take away from those premises a quantity of beer in contravention of this subsection.

(6) If the Under Secretary is satisfied that—

- (a) the sale and supply of beer from premises established in an area pursuant to this section is, directly or indirectly, the cause of regularly occurring disorder or breaches of the peace in the area; or

- (b) beer is regularly taken away from such premises in contravention of subsection (5); or
- (c) the sale and supply of beer from such premises is proving to be—
 - (i) detrimental to the health or well-being of the members generally of the community of Aborigines resident in the area; or
 - (ii) a source of danger to the life or safety of members generally of the community of Aborigines resident in the area or to property generally in the area,

he may by notice in writing given to the chairman of the relevant Aboriginal Council call upon the council to show cause at a time and place nominated by the Under Secretary why such premises should not be closed down.

If sufficient cause is not shown to the satisfaction of the Under Secretary, at such time and place or at such time and place to which the matter may be adjourned, he is hereby authorized to take all steps necessary to terminate the conduct of the business of selling and supplying beer from the premises and to remove from the area all beer being the stock in trade of those premises, upon payment of a fair price therefor to the Aboriginal Council, and to dispose of such beer removed and to pay the proceeds of such disposal (after payment of all proper expenses of the disposal) to the Community Fund of the relevant Aboriginal Council for the benefit of the community of Aborigines resident in its area.

(7) After payment of or making proper allowance for payment of costs and expenses of conducting the business of selling and supplying beer pursuant to the authority conferred by subsection (1), surplus moneys arising therefrom may be applied for the welfare of members of the community resident in the area in which the business is conducted and for works and services directed towards such welfare notwithstanding that the purpose of such application is not a purpose for which an Aboriginal Council may lawfully apply, or does ordinarily apply, any of its funds.

77. Protection of fishing and hunting. (1) Notwithstanding the provisions of any other Act, a member of a community resident in an area shall not be liable to prosecution as for an offence for taking marine products or fauna by traditional means for consumption by members of the community.

(2) Subsection (1) shall not be construed to authorize the sale or other disposal for gain of any marine product or fauna taken by traditional means.

78. Obstruction, intimidation and assault. A person shall not assault or wilfully obstruct or intimidate, or attempt so to do, another in the discharge or exercise by that other of his functions, duties or powers under this Act.

79. General penalty for offence. A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, except where another penalty is expressly provided by this Act for that offence is liable to a penalty of \$500 or to imprisonment for six months or to both such penalty and imprisonment.

80. Proceedings for offences. (1) Except where it is otherwise by this section provided, proceedings to enforce a penalty for an offence against this Act shall be taken in a summary way under the *Justices Act* 1886–1982 on the complaint of the Under Secretary or a person authorized by him in writing.

(2) If it is prescribed by the regulations that proceedings in respect of a particular offence against a regulation shall be taken before an Aboriginal Court proceedings against a person who is subject to the jurisdiction of an Aboriginal Court in respect of that offence shall not be cognisable by a Magistrates Court.

(3) In any proceeding before a Magistrates Court in respect of an offence alleged to have been committed by a person who in respect of that offence is subject to the jurisdiction of an Aboriginal Court it shall be a defence to prove that the defendant has already been dealt with by an Aboriginal Court of competent jurisdiction for the act or omission that constitutes the offence.

81. Evidentiary aids. In proceedings to enforce a penalty for an offence against this Act—

- (a) an averment in the complaint that a person named therein is part of the community that resides in an area shall be conclusive evidence thereof until the contrary is proved;
- (b) it shall not be necessary to prove the appointment or signature of the Under Secretary or the authority of the complainant to lay the complaint;
- (c) it shall not be necessary to prove the limits of any area.

82. Regulations. The Governor in Council may make regulations not inconsistent with this Act with respect to—

1. the functions, duties and powers of the Under Secretary and officers of the Department, and the manner of discharging or exercising those functions, duties and powers;
2. the extent of and the manner of exercising the jurisdiction of Aboriginal Courts and the procedures thereof; the manner of enforcing decisions of Aboriginal Courts;

3. the development, assimilation and integration of Aborigines;
4. the skills development, training and employment of Aborigines;
5. the composition of Aboriginal Councils; the qualification of candidates for membership of those councils; the franchise for elections of those councils and the conduct of those elections; the appointment, powers and duties of returning officers for those elections; the filling of casual vacancies in membership of those councils;
6. the selection of chairman and deputy chairman of Aboriginal Councils and the Aboriginal Co-ordinating Council;
7. the appointment of clerk of an Aboriginal Council;
8. the inspection of records of an Aboriginal Council by or on behalf of the Under Secretary;
9. the composition of Aboriginal Police forces and conditions of service of Aboriginal police;
10. the granting of aid to Aborigines; the conditions on which aid may be granted; the obligations of persons to whom aid is granted;
11. the management and control of the funds of Aboriginal Councils known as Community Funds; the payments into and disbursements from those funds;
12. the hours for trading in premises established in areas pursuant to section 76, the bringing of liquor into and the presence and consumption of liquor within areas or parts within the outer limits of an area that are reserved from the grant of that area or that are not reserved and set apart for the Aboriginal inhabitants of the State;
13. the establishment, maintenance, management and control of such trust funds and accounts as are necessary or desirable for the care of moneys of Aborigines deposited with the Under Secretary or the Aboriginal Industries Board or for the administration of Aborigines' estates or for the disposal of unclaimed moneys;
14. the establishment, maintenance, management and control of funds to indemnify Aborigines against loss of or damage to vessels, equipment or machinery, and to compensate Aborigines and their dependents for death or personal injury suffered by any person in the course of his employment in cases where compensation is not payable under *The Workers' Compensation Acts 1916-1983*; the basis on which such indemnity or compensation is payable;
15. the maintenance and application of the Aborigines Welfare Fund maintained by the Under Secretary;

16. meetings of the Aboriginal Industries Board and attendances thereat; the accounts and records to be kept by the Board, either generally or in relation to a particular business of the Board; the manner of keeping such accounts and records and of the performance of the Board's activities; the functions, powers and duties of the Board's officers, clerks and employees; the security and protection of the Board's property;
17. the forms to be used for the purposes of this Act and the purposes for which they are to be used;
18. the procedure to be adopted in relation to any application to be made under this Act;
19. the fees to be paid for the purposes of this Act and the purposes for which they are to be paid;
20. penalties for breaches of the regulations not exceeding in any case \$200;
21. all matters required or permitted by this Act to be prescribed and in respect of which the manner or prescription is not otherwise provided for; **and**
22. all matters and things for which it is necessary or convenient to provide for the proper administration of this Act or for achieving the objects and purposes of this Act.

Regulations may be made so as to apply throughout the whole of the State or within such part or parts of the State as are therein specified.

PART IX—ASSISTANCE TO AND REVIEW OF ABORIGINAL COUNCILS

83. Assistance to Aboriginal Councils. (1) Each of them, the Minister and the Under Secretary is authorized to provide to any Aboriginal Council, from the resources of the Department, such assistance by way of—

- (a) making available the services of officers of the Department; or
- (b) financial aid,

as in his opinion is necessary to enable the council to adequately discharge and exercise its functions, duties and powers.

(2) A person who is assigned to perform work by way of assistance to an Aboriginal Council shall be taken to be discharging a function under this Act while he is engaged in that assignment.

84. Use of churches etc. for provision of assistance. Subject to subsection (2), the authority conferred by section 83 on the Minister and the Under Secretary includes authority—

- (a) to make arrangements with any church or religious organization that works for the welfare of Aborigines with respect to the provision of assistance under that section; and

(b) to provide assistance under that section to the church or organization with whom the arrangements are made for application in accordance with the arrangements.

(2) Where the provision of assistance referred to in subsection (1) is for a particular area, the authority specified by that subsection shall not be exercised except with the approval of the Aboriginal Council established for that area first had and obtained.